UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,526	07/10/2003	Gerd Breiter	DE920020011US1	1217

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EXAMINER
HUSSAIN, TAUQIR

ART UNIT	PAPER NUMBER
2152	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/616,526	BREITER ET AL.
	Examiner	Art Unit	
	Tauqir Hussain	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 June 2007</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1 and 3-15</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,3-15</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Response to Amendment

1.　　This office action is in response to amendment /reconsideration filed on

06/06/2007, the amendment/reconsideration has been considered. Claim 2 has been

canceled and added to the independent claim 1. Claims 1,3-15 are pending for

examination, the rejection cited as stated below.

2.　　Claims 1,3-15 are rejected under 35 U.S.C 102(e) as being anticipated by

Kenner et al. (Patent Number: 6,112,239).

Response to Arguments

3.　　As applicant amended the claim 1 by adding the limitation of claim 2, "from a

directory services". Examiner rejects the claim under 35 USC § 102 as the term UDDI

has been eliminated from the limitation of claim 2.

4.　　Applicants arguments has been considered but deemed non persuasive and

amended claims has been rejected with additional citation from the original references

used in previous office action.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5.   Claim 1,3-15, are rejected under 35 U.S.C. 102(e) as being anticipated by

Kenner et al. (Patent Number: 6,112,239), hereinafter, "Kenner".

6.   As to claim 1, a method for enhancing streaming operation in a distributed

communication system providing communication links between a plurality of stream

servers, a client machine requesting a particular media file, and a stream server

selection unit (Fig.1, Element-32, server selection unit and Col.5, lines 13-18),

comprising the steps of:

retrieving a list of stream servers from a directory service(Kenner, Col.5, lines 46-

47, where various sites are interpret as stream servers and Fig.2, Col.5, lines 57-60,

where database can be a directory service from which stream servers name can be

retrieve upon client request),

evaluating the list of stream servers Col.5, lines 42-43),

selecting one of the stream servers on the list (Col.5, lines 61-63), and

initiating streaming from the selected stream server (Col.5, lines 37-40, where

having the file delivered to the user's terminal after site selection and evaluation

streaming must had initialized).

7.   As to claim 11, A method for enhancing streaming operation in a distributed

communication system providing communication links between a plurality of stream

servers, a client machine requesting a particular media file, and a stream server

selection unit (Fig.1, Element-32, server selection unit and Col.5, lines 13-18),

comprising the steps of:

detecting the data transfer rate between the client machine and the distributed

communication system (Col.10, lines 63-65),

intercepting a request for streaming a media file(Col.6, lines 31-36 and Kenner,

Col.5, lines 11-12, where directing user request for specific web content is intercepting a

request for streaming a media file),

modifying the streaming request by appending preference information for

streaming of the requested media file (Kenner, Fig.3, Col.15, lines 1-35, where

preferences are created from the original media file request and Col.6, lines 37-40), .

and

sending the modified streaming request to the stream server selection unit (Fig.1,

Element-32, Col.6, lines 34-36, where inherently selection and data request is handled

by MSP, which can be interpret as selection unit).

8.   As to claim 3, Kenner discloses, evaluating the list of stream servers further

includes the step of retrieving and considering the stream server's capabilities (Col.11,

lines 12-16).

9.   As to claim 4, Kenner discloses, further includes the step of retrieving and

considering the player availability (Col.6, lines 13-15, where outage metric can be

interpret as if resources are available to execute the file, which can be a software or

media player).

10.   As to claim 5, Kenner discloses, further includes the step of retrieving and

considering preferences from the client (Col.6, lines 25-27).

11.   As to claim 6, Kenner discloses, further includes the step of retrieving and

considering the client connectivity (Col.10, lines 1-4).

12.   As to claim 8, Kenner discloses, determining whether or not the stream server

can handle streaming of the requested media file (Col.5, lines 52-56, where different

tests are performed to evaluate if users request can be processed).

13.   As to claim 7, Kenner discloses, further includes the step of weighting one or

more considered parameters (Col.9, lines 32-33).

14.   As to claim 9, Kenner discloses, further comprising the step of determining

whether or not the format of the media file has changed (Col.14, lines 46-48).

15.   As to claim 10, Kenner discloses, determining whether or not the quality of the

media file is to high for the connection from the selected stream server to the client

machine (Col.10, lines 60-62).

16.   As to claim 12, Kenner discloses, further comprising the initial step of detecting

the capabilities of the client machine (Col.9, lines 58-63).

17.   As to claim 13, Kenner discloses, further comprising the step of retrieving

preferences predetermined by a user of the client machine (Col.6, lines 37-40).

18.   As to claim 14, Kenner discloses, a device for enhancing streaming operation in

a distributed communication system providing communication links between a plurality

of stream servers, a client machine requesting a particular media file, and a stream

server selection unit, the device being configured to perform a method according to

claim 1 (Fig.1, Col.8, lines 13-19).

19.   As to claim 15, Kenner discloses, a computer program product stored on a

computer usable medium, comprising computer readable program means for causing a

computer to perform a method according to claim 1 (Col.22, lines 8-17).

Examiner's Note: Examiner has cited particular columns and line numbers in the

references, as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are

applied to the specific limitations within the individual claim, other passages and figures

may apply as well. It is respectfully requested from the applicant in preparing

responses, to fully consider the references in its entirety as potentially teaching of all or part of the claimed invention, as well as the context.

Conclusion

1.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tauqir Hussain whose telephone number is 571-270-1247. The examiner can normally be reached on 7:30 AM to 5:00 PM.
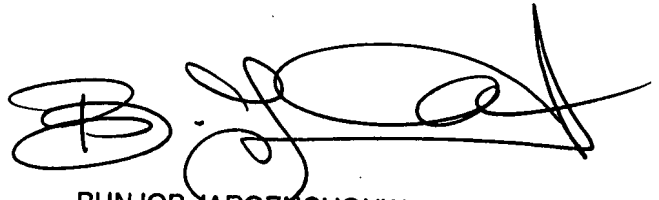
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571 272 3913. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TH

BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER

8/19/7